



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 23, 1992

Ms. Laura S. Portwood
Senior Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR92-671

Dear Ms. Portwood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17656.

The Houston Police Department (the "department") has received a request for certain information about several incidents on August 17, 19, and 20 of this year, including videotapes taken of those incidents. You have submitted to us for review a copy of the requested videotape of the public meeting held on August 19 and copies of the videotapes of the August 20 incidents. You explain that we have previously reviewed the August 17 videotapes and ruled on them in OR92-599 and that neither the city nor the department has videotapes of the August 19 evening demonstration. Since the Open Records Act (the "act") applies only to information in existence and does not require a governmental body to prepare new information, we address in this ruling only the availability of the videotapes submitted to us for review in conjunction with this request or OR92-599. *See* Open Records Decision No. 362 (1983) (act inapplicable to information not in existence).¹

You assert that the videotapes at issue here are protected from required public disclosure by either section 3(a)(8) of the act or section 51.14 of the Family Code. You explain that both the criminal investigation and the internal affairs investigation of the August 17, 1992, incidents that we referred to in OR92-599 are still pending. Thus, you may continue to rely on our ruling in OR92-599 (copy

¹ You also explain that the city will provide the requestor the other information she requested to the extent that it exists.

enclosed) and withhold the August 17 videotapes pursuant to section 3(a)(8) of the act. With regard to the videotape of the August 19 public meeting, you state that there are five criminal cases still pending on charges filed as a result of the incident depicted on the tape. Consequently, you may also withhold the August 19 videotape pursuant to section 3(a)(8).

With regard to the videotapes of the August 20 incidents, you explain that the videotapes depict both adults and juveniles engaged in allegedly criminal conduct. You assert that section 3(a)(8) protects from disclosure the part of the tapes depicting the adult's conduct since criminal charges are still pending against the adults. Given the pending criminal charges against the adults, section 3(a)(8) protects from required public disclosure the portions of the tapes concerning the adults.

You also assert that the part of the videotapes concerning the juveniles' conduct is protected from required public disclosure by section 51.14 of the Family Code. Section 51.14(d) of the Family Code provides that as a general rule "law-enforcement files and records [of a child] are not open to public inspection nor may their contents be disclosed to the public." *See* Family Code § 51.02 (defining "child" for purposes of chapter 51); *see also* Open Records Decision Nos. 394 (1983); 181 (1977). We understand that each juvenile whose records are at issue here is a "child" as defined by chapter 51 of the Family Code. In addition, we find that none of the exceptions to the general rule of non-disclosure apply in this case. *See, e.g.*, Family Code § 51.14(d)(1)-(3). Thus, the part of the August 20 videotapes concerning the conduct of the juveniles must be withheld pursuant to section 51.14 of the Family Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-671.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lmm

Ref.: ID# 17656

Enclosure: Submitted documents
OR92-599

cc: Ms. Suzanne Donovan
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(w/o enclosures)